HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 395 of 2002 (SB)

Jai Prakash s/o Sri Shripat, R/o Sitarganj, District Udham Singh Nagar ..... Petitioner

Versus

1. District Magistrate, Udham Singh Nagar
2. Sub Divisional Magistrate, Udham Singh Nagar
3. Sub Divisional Magistrate, Khatima
4. Shiv ram Collection Peon Kashipur
5. Chandra Dutt Bhatt, Gadarpur, Udham Singh Nagar

..... Respondents

Sri S.S. Yadav, Advocate for the petitioner
Standing Counsel for the respondents.

Dated: 1.3.2006

Hon'be Rajesh Tandon, J.

Heard Sri S.S. Yadav, counsel for the petitioner and Standing counsel for the respondents.

By the present writ petition, the petitioner has prayed for a writ of mandamus directing the respondents no. 2 and 3 to appoint again the petitioner as Seasonal Collection Peon and consider his case for regularisation.

Briefly stated the petitioner was appointed on 23.6.1993 on the post of Seasonal Collection Peon. Thereafter his appointment was extended from time to time for each season.

According to the petitioner respondent no. 1 issued a seniority list on 11.6.1998. According to the petitioner, junior persons to him have filed a writ petition No. 2797/97 Umesh Baba vs. State of U.P. on the basis of which they are still working on the post of Seasonal collection Peon.

The respondents have filed counter affidavit and has submitted that the petitioner has worked as Seasonal Collection Peon periodically from 23.6.1993 to 31.3.1998. The respondents have also admitted that seniority list of the seasonal collection peons has also been prepared and the name of the petitioner has found place at serial number 6. The respondents have also admitted the counter affidavit that in compliance of the order dated 30.9.1997 passed by Allahabad High Court in Writ petition No. 32873 of 1997, junior persons to the petitioner are still working as Seasonal Collection Peon.

In view of the admission made by the respondents in counter affidavit, the petitioner may be considered to continue as Seasonal Collection Peon as persons junior to him are provided work in the respondent department.

According to G.O. No. 57/1-7-96 dated 8.1.96 appointments on 50% posts of Collection Peons will be done from the Seasonal Collection Peons who worked at least four Fasli years. The name of the petitioner is at serial number 6 in the seniority list prepared by the respondents.

In view of above, a writ of mandamus is issued directing the respondents to consider the petitioner to continue as Seasonal Collection Peon according to his seniority.

The respondents shall consider regularisation of the petitioner in accordance with law against 50% vacancies of Collection Peons if permissible.

Accordingly, writ petition is disposed of. No order as to costs.

Dated: 1.3.2006 **Rajesh Tandon, J.**

*Dhyani